

DEPARTMENT OF THE ARMY
Wilmington District, Corps of Engineers
Post Office Box 1890
Wilmington, North Carolina 28402-1890
(<http://www.saw.usace.army.mil/wetlands/regtour.htm>)

Action ID No. 200230991

June 24, 2002

PUBLIC NOTICE

GIVENS ESTATES, INC., C/O KEN PARTIN, 2360 SWEETEN CREEK ROAD, ASHEVILLE, NORTH CAROLINA 28803 has applied for a Department of the Army (DA) permit **TO DISCHARGE FILL MATERIAL INTO UNNAMED TRIBUTARIES TO DINGLE CREEK AND ADJACENT WETLANDS IN CONJUNCTION WITH AN EXPANSION OF THE UNITED METHODIST RETIREMENT COMMUNITY LOCATED ON THE EAST SIDE OF SWEETEN CREEK ROAD, NC HIGHWAY 25A, SEVEN MILES SOUTH** of Asheville in Buncombe County, North Carolina.

The following description of the work is taken from data provided by the applicant and from observations made during an onsite visit by a representative of the Corps of Engineers. Plans submitted with the application show the construction of a five-story, 300,000 square foot independent living apartment building, 59 cottages, and a new perimeter roadway on an approximate 187-acre site. Perennial and intermittent stream channels, adjacent wetlands, and two ponds, which will be impacted by the project construction, are located in the Dingle Creek watershed. Impacts to stream A (perennial), associated with parking lot footprints and perimeter road crossings, will result in 430 linear feet of pipe installation and 310 linear feet of stream relocation. Approximately 220 linear feet of pipe will be installed in stream B (perennial), over which the new independent living building will be constructed. A walking path and emergency vehicle access over Stream C (intermittent, aquatically unimportant) will require 80 linear feet of pipe installation. Impacts to stream D (intermittent, aquatically unimportant) will result from 420 linear feet of pipe installation for housing foundations and road crossings. Fill will be discharged into 0.004 acre of wetland area A for new building construction. The two existing ponds will be enlarged and combined into one, incorporating a cold-water release structure. All new facilities have been designed in close proximity to existing facilities in order to maintain pedestrian connectivity. The complex will utilize existing connections to the City of Asheville water and sewer network. A conceptual mitigation plan, to offset unavoidable impacts to waters of the United States, was submitted with the application. Mitigation proposed includes 650 linear feet of on-site perennial stream restoration, 500 linear feet of on-site intermittent stream enhancement, 990 linear feet of perennial stream channel preservation, and the preservation of 0.31 acre of remaining wetlands. All streams and riparian buffers will be protected in perpetuity by conservation easements. The purpose of the project is to meet the current and projected demand for retirement housing in the Asheville, NC region. Plans showing the work are included with this public notice.

The State of North Carolina will review this public notice to determine the need for the applicant to obtain any required State authorization. No Department of the Army (DA) permit will be issued until the coordinated State viewpoint on the proposal has been received and reviewed by this agency, nor will a DA permit be issued until the North Carolina Division of Water Quality (NCDWQ) has determined the applicability of a Water Quality Certificate as required by PL 92-500.

This application is being considered pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Any person may request, in writing within the comment period specified in the notice, that a public hearing be held to consider this application. Requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

The District Engineer has consulted the latest published version of the National Register of Historic Places for the presence or absence of registered properties, or properties listed as being eligible for inclusion therein and this worksite is not registered property or property listed as being eligible for inclusion in the Register. Consultation of the National Register constitutes the extent of cultural resource investigations by the District Engineer.

The District Engineer, based on available information, is not aware that the proposed activity will affect species, or their critical habitat, designated as endangered or threatened pursuant to the Endangered Species Act of 1973.

The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all those factors, which become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards and flood plain values (in accordance with Executive Order 11988), land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and in general, the needs and welfare of the people. For activities involving the placement of dredged or fill materials in waters of the United States, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agencies' 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria, a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State and local agencies and officials; Indian Tribes and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of

Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Generally, the decision whether to issue this Department of the Army (DA) permit will not be made until the North Carolina Division of Water Quality (NCDWQ) issues, denies, or waives State certification required by Section 401 of the Clean Water Act. The NCDWQ considers whether or not the proposed activity will comply with Sections 301, 302, 306, and 307 of the Clean Water Act. The application and this public notice for the Department of the Army (DA) permit serves as application to the NCDWQ for certification.

Additional information regarding the Clean Water Act certification may be reviewed at the offices of the Environmental Operations Section, North Carolina Division of Water Quality (NCDWQ), Salisbury Street, Archdale Building, Raleigh, North Carolina. Copies of such materials will be furnished to any person requesting copies upon payment of reproduction costs.

All persons desiring to make comments regarding the application for Clean Water Act certification should do so in writing delivered to the North Carolina Division of Water Quality (NCDWQ), 1621 Mail Service Center, Raleigh, North Carolina 27699-1621, on or before July 17, 2002, Attention: Mr. John Dorney.

Written comments pertinent to the proposed work, as outlined above, will be received in this office, Attention: David Baker, until 4:15 p.m., July 24, 2002, or telephone (828) 271-7980, extension 6.



Source: U.S.G.S 1:100,000 Scale Topographic Quadrangle of Asheville, NC, dated 1985 (Maptech, 1997), 50-meter contour interval.

EXPLANATION

 Approximate Project Area



North Carolina Vicinity Map

NOT TO SCALE

G:\projects\30300\Natural Resources\Jobs\2001\0992 - Givens Estates\Figure 1_Vicinity Map.ppt

Prepared: *BK 5/10/02*
Checked: *RL 5/10/02*

**Givens Estates United
Methodist Retirement
Community**
Asheville, North Carolina

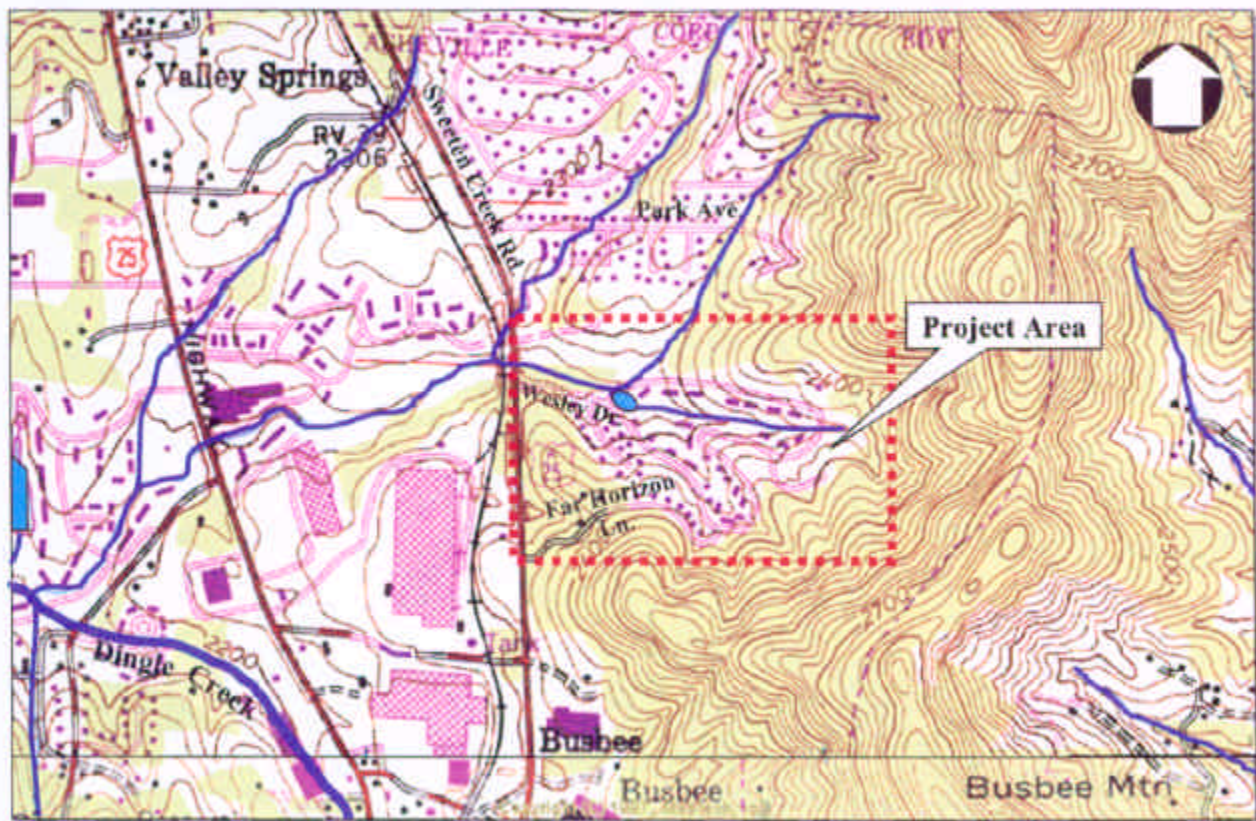


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Vicinity Map

Project 30300-1-0992

Figure 1



Source: U.S.G.S. 1:24,000 Scale Topographic Quadrangle of Asheville, NC, dated 1991 (Maptech, 1997), 20-foot contour interval.

EXPLANATION



Approximate Project Area



Perennial Stream Channel



Pond (PuBHh)*

- Palustrine
- Unconsolidated Bottom
- Permanently Flooded
- Diked/Impounded



North Carolina Vicinity Map

NOT TO SCALE

* U.S. Fish and Wildlife Service (USFWS) National Wetlands Inventory (NWI), 1991. Asheville, N.C. quadrangle map. U.S. Department of the Interior.

G:\projects\30141Natural Resources\Jobs\2001\0992 - Givens Estates\Figure 2_Location Map.ppt

Prepared: BL 5/10/02
Checked: CHM 5/10/02

**Givens Estates United
Methodist Retirement
Community**
Asheville, North Carolina



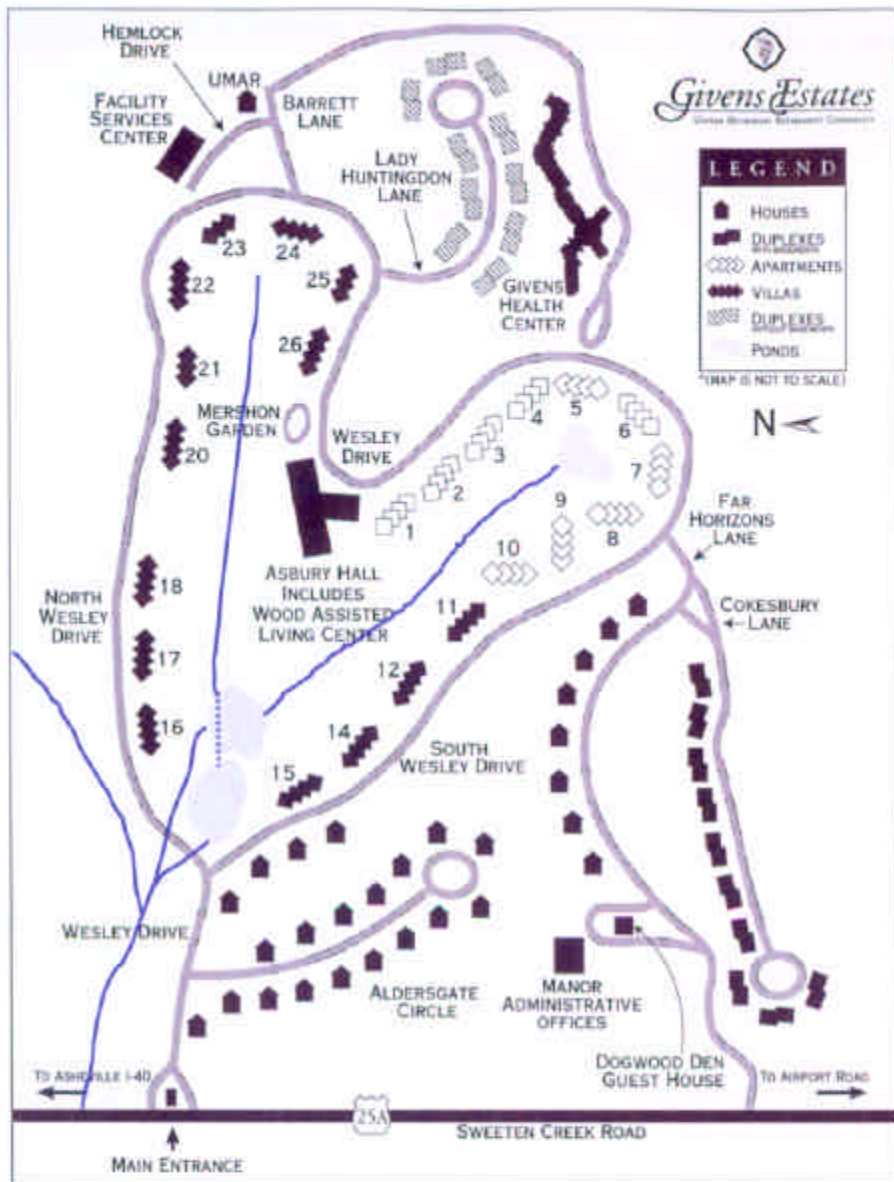
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Location Map

Project 30300-1-0992

Figure 2



Source: Givens Estates website, http://www.givensestates.org/site_map_2000.html, dated 2002

EXPLANATION

- Open Stream Channel
- Piped Stream Channel
- Pond

NOT TO SCALE

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Prepared: BLL 5/10/02
Checked: CHM 5/10/02

**Givens Estates United
Methodist Retirement
Community**
Asheville, North Carolina



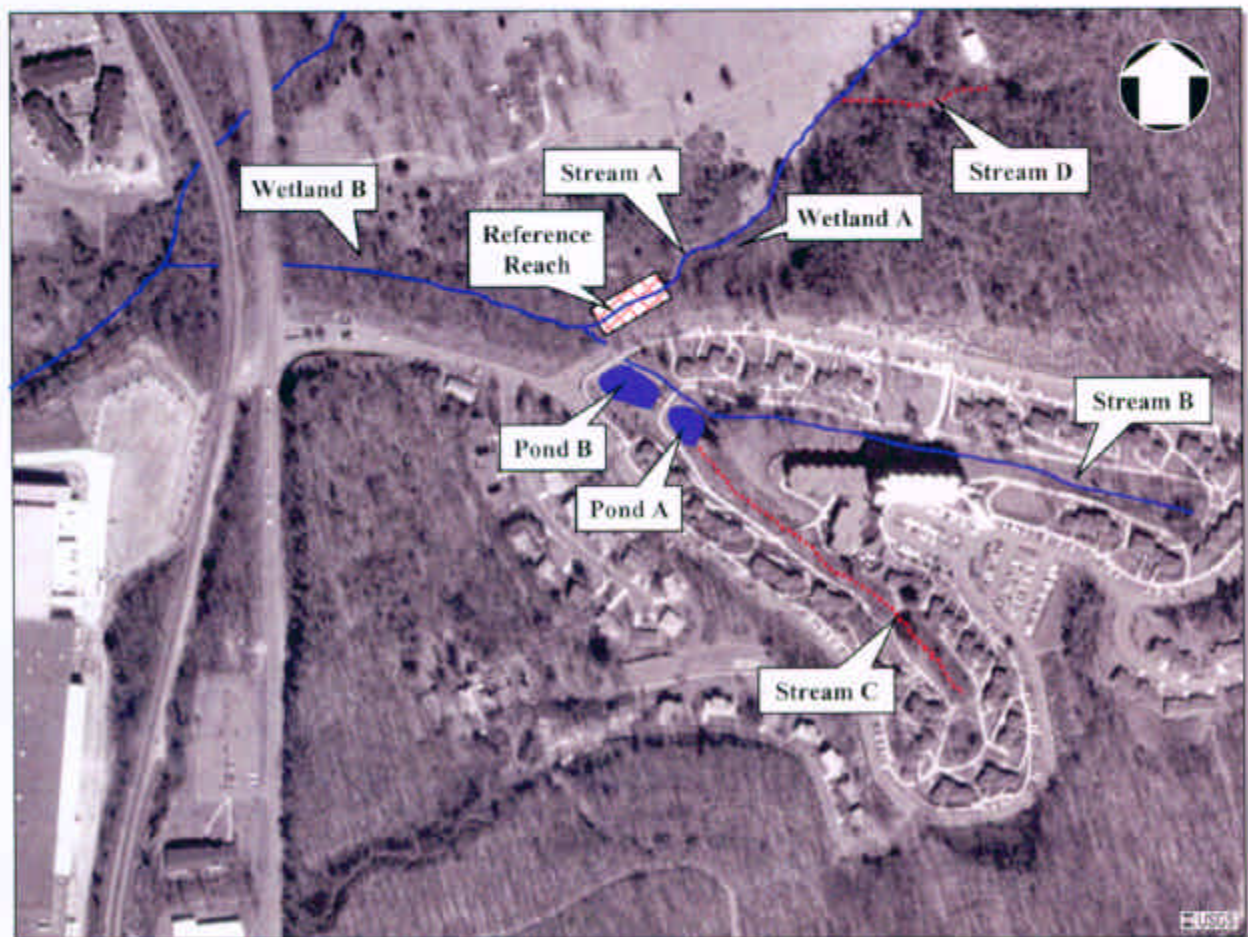
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**Existing Conditions
Map**

Project 30300-1-0992

Figure 3



Source: U.S. Geological Survey (USGS) Terraserver image, dated 1993.

EXPLANATION



Perennial Stream Channel



Intermittent, Aquatically Unimportant Stream Channel



Pond



Reference Stream Reach

NOT TO SCALE

G:\projects\00141\Natural Resources\Jobs\2001\0992 - Givens Estates\Figure 4_Aerial Photograph.ppt

Prepared: BIL 5/10/02

Checked: CAM 6/10/02

**Givens Estates United
Methodist Retirement
Community**
Asheville, North Carolina



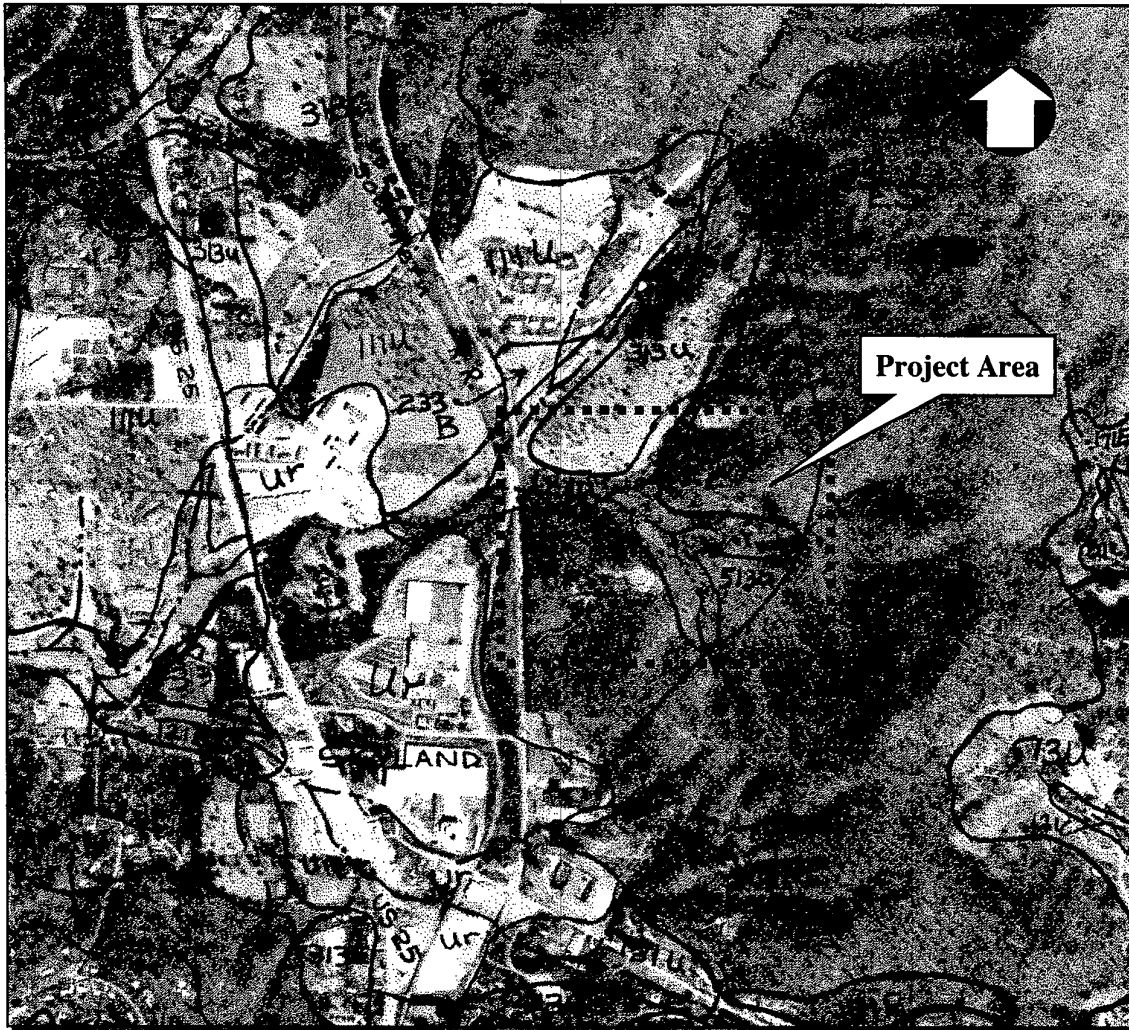
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Aerial Photograph

Project 30300-1-0992

Figure 4



Source: Natural Resources Conservation Service (formerly Soil Conservation Service) (1976). Advance soils information for Buncombe County, North Carolina. U.S. Department of Agriculture.

ON-SITE SOILS*

121U - Tate Urban Land Complex, 2 -15% slopes

313U - Hayesville Urban Land Complex, 2 -15% slopes

513U - Evard Urban Land Complex, 15 - 30% slopes

* "USDA advance information (unpublished) - subject to change"

NOT TO SCALE

G:/projects/30141Natural Resources/Jobs/2001/0992 - Givens Estates/Figure 5_Soils.ppt

Prepared: BW 5/10/02
Checked: CAM 5/10/02

**Givens Estates United
Methodist Retirement
Community**
Asheville, North Carolina



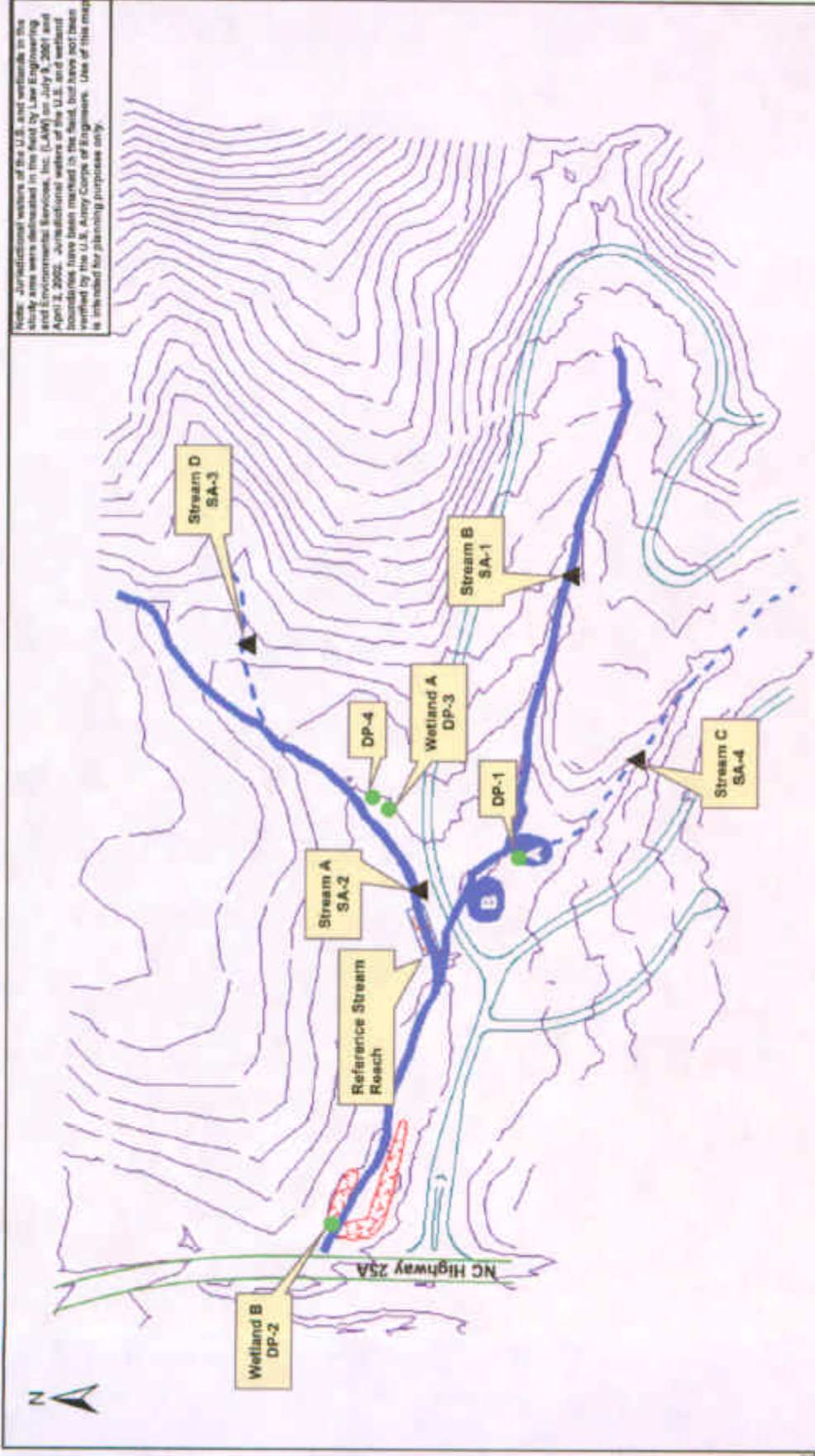
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Soils Map

Project 30300-1-0992

Figure 5

Note: Jurisdictional waters of the U.S. and wetlands in the study area were delineated in the field by Law Engineering and Environmental Services, Inc. (LAWE) on July 9, 2001 and April 2, 2002. Jurisdictional waters of the U.S. and wetland boundaries have been marked in the field, but have not been verified by the U.S. Army Corps of Engineers. Use of this map is intended for planning purposes only.



Legend

● Wetland Data Point	— Perennial Stream
▲ Stream Assessment Point	- - - Intermittent Aesthetically Unpleasant Stream
■ Open Water (Jurisdictional)	— Erosion Hazard
■ Multiple Stream Reach	- - - Wetland Area

Approximate Wetlands of The U.S. And Wetlands Boundary Map

Prepared By	Designed By
Approved By	Drawn
Job No.	Project No.
LAWE-000002	00
Date: June 7, 2002 Figure: 6	

Givens Estates

United Methodist Retirement Community

Buncombe County, North Carolina

LAWE
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Note: Jurisdictional waters of the U.S. and wetlands in this study area were delineated in the field by Law Engineering and Environmental Services, Inc. (LAWS) on July 8, 2007 and April 2, 2008. Jurisdictional waters of the U.S. and wetland boundaries have been marked in the field, but have not been verified by the U.S. Army Corps of Engineers. Use of this map is intended for planning purposes only.



Legend

- Open Water (with flow)
- Existing Structure
- Building Footprint
- Potential Stream
- Intermittent Aquatically Unresponsive Stream

Givens Estates

United Methodist Retirement Community
Buncombe County, North Carolina

Existing Conditions

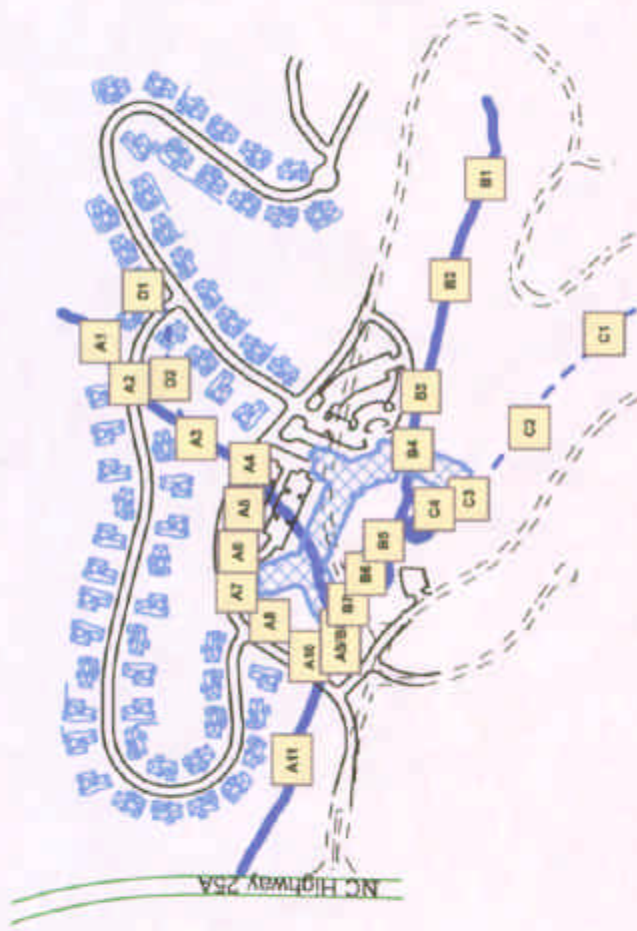
Prepared by	Checked by	Date

LAWS
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Scale: 1" = 100' Feet

North Arrow

Note: Jurisdictional waters of the U.S. and wetlands in the study area were delineated in the field by Law Engineering and Environmental Services, Inc. (LEES) on July 6, 2001 and April 2, 2002. Jurisdictional waters of the U.S. and wetlands delineated have been marked in the field, but have not been verified by the U.S. Army Corps of Engineers. Use of this map is intended for planning purposes only.



LEGEND

- Existing Road
- Proposed Road
- Open Water (Jurisdictional)
- Proposed Structure
- A-11
- Potential Brown
- Immediate Adjacent Unimpaired Brown
- Mitigation of Brown Head (Note: See Figure 3 for Proposed Impacts and Mitigation)

Givens Estates

United Methodist Retirement Community

Buncombe County, North Carolina

Proposed Impacts And Mitigation Activities

Prepared by	Checked by
Prepared by	Checked by
DATE	DATE
2010-1-09-12	2010-1-09-12
CS	CS

Figure 8 - Project Impacts and Proposed Mitigation

Perennial Stream A			
Stream Reach	Revised Impacts (lf)	Original Impacts (lf)	Project Activity
A1	150	-	<i>Stream preservation</i>
A2	90	90	Pipe
A3	270	-	<i>Stream preservation</i>
A4	50	50	Pipe
A5	180	180	Pipe
A6	80	90	<i>Stream relocation/restoration</i>
A7	50	50	Pipe
A8	230	230	<i>Stream relocation/restoration</i>
A9	50	50	Flooding
A10	60	60	Pipe
A11	400	-	<i>Stream preservation</i>
Pipe Impacts:	430	660	linear feet
Flooding Impacts:	50	50	linear feet
Relocation Impacts:	310	-	linear feet
Stream Restoration:	310	-	<i>linear feet</i>
Stream Preservation:	820	-	<i>linear feet</i>
Watershed A, above confluence (acres):		101	
Watershed A, above confluence (square miles):		0.16	
Watershed A, Sweeten Creek Rd. (acres):		256	
Watershed A, Sweeten Creek Rd. (square miles):		0.40	

Perennial Stream B			
Stream Reach	Revised Impacts (lf)	Original Impacts (lf)	Project Activity
B1	170	-	<i>Stream preservation</i>
B2	100	-	<i>Stream restoration (step-pool)</i>
B3	110	110	<i>Stream restoration (step-pool)</i>
B4	220	220	Pipe
B5	180	180	Flooding
B6	80	-	Pipe replacement
B7	130	-	<i>Stream restoration (step-pool)</i>
B8	40	40	Flooding
Pipe Impacts:	220	330	linear feet
Dam Impacts:	NA	NA	linear feet
Flooding Impacts:	220	220	linear feet
Stream Restoration:	340	-	<i>linear feet</i>
Stream Preservation:	170	-	<i>linear feet</i>
Watershed B, above confluence (acres):		92	
Watershed B, above confluence (square miles):		0.14	

Intermittent, Aquatically-Unimportant Streams C and D			
Stream Reach	Revised Impacts (lf)	Original Impacts (lf)	Project Activity
C1	400	-	NA
C2	270	-	<i>Stream enhancement</i>
C3	80	180	Pipe
C4	50	-	<i>Stream enhancement</i>
D1	420	420	Pipe
D2	180	-	<i>Stream enhancement</i>
Pipe Impacts:	500	600	linear feet
Stream Enhancement:	500	-	<i>linear feet</i>
Watershed C, above confluence (acres):		46	
Watershed C, above confluence (square miles):		0.07	
Watershed D, above confluence (acres):		10	
Watershed D, above confluence (square miles):		0.02	

Wetland Impacts		
Site	Area (acres)	Project Activity
Wetland A	0.004	Filling
Wetland B	0.31	No Impact

Open Water Impacts		
Site	Area (acres)	Project Activity
Pond A	0.11	Reconfiguration
Pond B	0.14	Reconfiguration
New Main Pond	0.32	Construction
Existing Reflecting Pool	0.002	No Impact
New Entrance Pond	0.04	Construction

Notes:

- 1) Regular font indicates project impacts
- 2) *Italicized font indicates mitigation*